IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19/07/2002

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

W.P.NO.8226 OF 1998
and
W.M.P.No.12501 of 1998

G.B. Adhilakshmi Ammal .. Petitioner

Vs.

The Special Deputy Collector (Stamps),
M. Singaravelar Complex,
Office of the District Collectorate,
V Floor, Rajaji Salai,
Chennai 600 001. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorari as stated therein.

For Petitioner : Mr.C.Sivaprakash for
Mr.S. Natarajan

For Respondent : Mr.R. Kanniappan
Government Advocate

:J U D G M E N T

The writ petition has been filed challenging the order dated 22.4.1 997 passed by the Special Deputy Collector (Stamps) whereunder the petitioner has been called upon to pay deficit stamp duty of Rs.1,43,33 7/-.

2. The petitioner was in occupation of the disputed land belonging to Arulmigu Agatheeswarar Prasanna Venkatesa Perumal Devasthanam by putting up his own structure. The Devasthanam filed Ejectment Suit No.143 of 1981 before the IV Judge, Court of Small Causes, Chennai. Invoking section 9 of the City Tenants Protection Act, the petitioner filed M.P.No.720 of 1982 praying for alienation of the land in favour of the petitioner. The aforesaid application was allowed by the Court by order dated 19.3.1995 fixing the sale price at Rs.9,250/-, that is to say, at Rs.10/- per sq.ft. As per the direction, the petitioner deposited the said amount in the Court. However, since the Devasthanam failed to execute the sale deed in spite of specific order, the petitioner filed M.P.No.120 of 1990 and accordingly, Sale Deed No.271/1992 was executed by the Court in the Office of the SubRegistrar, Thousand Light, conveying 925 sq.ft in favour of the petitioner. A sum of

Rs.1,209/- was paid as stamp duty as per the valuation fixed by the Court. However, the Sub-Registrar subsequently assessed the value at Rs.11,11,880/- and called upon the petitioner to pay further amount of Rs.1,43,337/- as stamp duty. Subsequently, an order purporting to be under Section 47A(1) was passed calling upon the petitioner to pay the aforesaid deficit stamp duty.

3. The order of the Court fixing the valuation in the year 1985 had not been challenged by the Devasthanam and had become final. As a matter of fact, since the Devasthanam had not complied with the direction for execution of the sale deed, the sale deed had to be executed by the Court and the stamp duty as per the consideration fixed by the Court had been paid. The demand for payment of additional stamp duty is on the basis of alleged market value of the land in question. However, when the market value had been fixed by the court and it had not been challenged, it was improper on the part of the respondent to call upon the petitioner to pay additional stamp duty. The Court had exercised statutory power contemplated under the City Rent Control Act and the sale deed had been executed by the Court itself in compliance with such direction. It is not the case of the respondent that the present petitioner and the Devasthanam, which was a party to the judicial proceeding, had colluded with each other and had deliberately undervalued the sale deed and even the Court was a party to such collusion. In the absence of any such allegation or finding, the respondent should not have arbitrarily called upon the petitioner to pay additional stamp duty.

4. For the aforesaid reasons, the writ application is allowed and the order passed by the respondent is quashed and the respondent is directed to deliver the registered sale deed to the petitioner. There will be no order as to costs. Consequently, W.M.P.No.12501 of 1998 is closed.

19-07-2002

Index : Yes
Internet : Yes
dpk

To

The Special Deputy Collector (Stamps),
M. Singaravelar Complex,
Office of the District Collectorate,
V Floor, Rajaji Salai,
Chennai 600 001.

P.K. MISRA, J.

Judgment in W.P.8226/1998
and WMP.No.12501 of 1998